

REMARKS

The following comments are addressed to the final patent Office Action in which claims 21-59 have rejected as anticipated by Fullenkamp et al., U.S. Patent No. 5,348,326 and additionally rejected under 35 U.S.C. § 103 as unpatentable over Lloyd in view of the admitted prior art. This statement of the rejection is contained at pages 2-5 of the Patent Office Action with the Examiner's "Response to Arguments" section containing an indication that the previous response of November 21, 2002 was not persuasive as detailed at the bottom of page 5 and at pages 6 and 7.

In order to avoid reiterating previous arguments, Applicant's traversal will be based on the indications given in the "Response to Arguments" section of the Office Action. With respect to the 35 U.S.C. § 102 rejection based on the reference to Fullenkamp, the Examiner has indicated that arguments relevant to a "light trolley" are not relevant because the weight of the trolley and constant force requirements are not claimed. Furthermore, according to the Examiner, the gas strut of Fullenkamp applies a constant force of 400 newtons. Lastly, the Examiner indicated that Fullenkamp has a "fixed" wheel.

The discussion of light trolley in the previous response was meant to indicate that Fullenkamp has no need for a constant force because this reference concerns heavy hospital beds which do not have a requirement for constant force. Therefore, the argument concerning light trolleys is not addressed to what is claimed as a light trolley but is instead addressed to what would not be obvious to Fullenkamp. That is, it would not be obvious to Fullenkamp to have a constant force because he is using it on heavy beds where it would do no good, so

then there is no need for a strut. The gas spring on the peddle lock mechanism is connected with oblique links in Fullenkamp, and this mechanical configuration cannot provide a constant force. In fact, it definitively provides a varying force depending on the position of the control wheel. When such a spring is used, there is no mechanical way that a constant force can be achieved from the mechanism of Fullenkamp.

The control wheel constructed with the claimed gas strut has the correct force at all positions of vertical travel of the controlled wheel.

The 400 newtons specified by Fullenkamp is the preference for force required by the spring. This does not specify constant force nor it provide any indication of the requirement because Fullenkamp was dealing with hospital beds and very flat floors. The required force was determined experimentally as the force required to prevent skidding or slipping of the control wheel.

Applicant submits that a strut is not the same as a spring, and none of the references, whether it be Fullenkamp or Lloyd, have a combination with a gas strut operable to provide control contact between the fixed wheel and the surface, and particularly a self-contained gas strut which is normally a co-linear arrangement. With respect to the wheel mechanism being "fixed" the reference does not show a device having the same meaning for "fixed" as disclosed within the confines of the specification. As indicated by the Examiner, although limitations from the specification are not read into the claims, the claims are interpreted in light of the specification. A comparison of "fixed" as interpreted in the specification and the reference to Fullenkamp indicates that they are not the same.

The Examiner's continued rejection of claims 21-59 as obvious over the combination of Lloyd and the admitted prior art was indicated as based on his disagreement with the Applicant's arguments that a gas strut would not be obvious to be combined with Lloyd. The Examiner maintains that compression springs and gas springs are obvious equivalents within the family of springs, and that the mechanism of Lloyd requires a component that will perform a spring function.

Applicant submits that the use of a gas strut provides the correct force at all positions of vertical travel of the control wheel while the mechanism of Lloyd does not travel below the contact surface and, therefore, would not control a trolley on a trough or dip in the control surface. This showing of the reference to Lloyd was provided at the personal interview in the parent application.

Additionally, Applicant submits that it is not obvious that a gas strut has a linear characteristic or that one could actually specify the force of the gas strut based on the design of the strut and the ability to fill at any pressure. A strut is much more than a spring, and there is no reason that Lloyd would use a strut because of different considerations, even if the characteristics of the strut would have been understood by Lloyd. There was no need for one for such a system of Lloyd because they were not concerned with light trolleys.

Once again it is emphasized that although the claims do not recite the light trolley, the argument is that the prior art would not use a gas strut because neither Fullenkamp or Lloyd needed them for the applications envisioned. To say that, if light trolleys were used, Fullenkamp and Lloyd would have used the gas strut, is a hindsight reconstruction based on Applicant's own invention. The

test is whether one skilled in the art having the references of record before them would make the combination to yield the present invention, and the test is not whether the teaching of Applicant's own invention can be used as a guide to combine prior art.

Therefore, reconsideration and allowance of this application are respectfully requested, including claims 21-59.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #1674/43755CO).

Respectfully submitted,

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